

**UNIVERSITY OF TORONTO  
GOVERNING COUNCIL**

**REPORT NUMBER 270 OF THE ACADEMIC APPEALS COMMITTEE**

**October 10, 2002**

To the Academic Board,  
University of Toronto

Your Committee reports that it held a meeting on Thursday, October 10th, 2002, at which the following members were present:

Professor Emeritus Ralph Scane (Senior Chair)  
Mr. Brian Davis  
Professor David Jenkins  
Professor Gretchen Kerr  
Mr. Sean Mullin

Secretary: Mr. Paul Holmes (Judicial Affairs Officer)

In Attendance:

For the Student:

Ms M.S. (The Student)

For the University of Toronto at Scarborough:

Associate Dean Ian McDonald

This is an appeal from the decision of the Subcommittee on Academic Appeals of the University of Toronto at Scarborough (UTSC), dated November 12, 2001, dismissing an appeal from the decision of the Subcommittee on Standing, dated July 20, 2001. The latter decision had dismissed a petition to defer a one-year suspension imposed on the Student at the end of the 2001 Winter Session for failure to attain a required minimum GPA. In fact, the Student has served that suspension, and returned to the University in the Summer Session of 2002. However, the appeal is not moot, primarily because the decision on this appeal may affect the Student's academic status in future, and also because the Student has requested that the notation of the suspension be removed from her official transcript.

The Student, who then lived and had taken her pre-university schooling abroad, was admitted to the Bachelor of Business Administration (B.B.A) programme at UTSC for the academic year commencing in September 2000. Her formal admission letter, dated July 26, 2000, advised that

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transfer credit for courses taken by her would be assessed by the University when her official transcript was available, and also that the University reserved the right to amend the offer of admission and register her "on condition" if she failed to meet a stated standard in her "Advanced Level" subjects. The University did not receive the required transcripts until early 2001. On January 30, 2001, The Admissions and Awards Department wrote to the Student advising that, as the minimum requirements for clear admission had not been met, the Student's admission status was changed to "on condition", and she would have to attain a cumulative GPA of 1.7 at the end of the session in which at least two full courses had been completed. This was the Winter Session of 2001. The Student states that she did not receive this letter until after the "drop date" of February 18, 2001.

By the end of the 2001 Winter Session, the Student completed 2.5 FCEs (Full Credit Equivalents). Her cumulative GPA was significantly below the minimum required to meet the condition of her admission, and the suspension that is the subject of this appeal followed, in accordance with the academic rules of UTSC.

In the academic year preceding the suspension, the Student encountered a number of difficulties. Due to visa difficulties, she could not start her courses until early October 2000. She had been warned by the Registrar's Office at UTSC that the B.B.A. programme supervisor felt that she had missed too much work to start her studies immediately, and suggested that she defer her start to the beginning of the Winter Session (with suggestions as to how that might be accomplished), or wait until September, 2001. However, after her arrival, and discussions between her, the program supervisor, her own academic advisor and the two course instructors for courses she wished to start immediately, she was permitted to enrol in two full courses commencing in the Fall Term and a Winter Session half-course. She later added two more Winter Session half-courses.

In her private life, the Student was living in Richmond Hill with an uncle and aunt. They were having marital difficulties, which created a difficult study situation. She had a long commute to UTSC. She suffered from migraine headaches. Finally, in April, just prior to her examinations, she received word from her sister in Pakistan that her parents were proposing to divorce, and shortly after this, that her father had been hospitalised.

Were it not for the news she received in April, your Committee would not interfere with the decision of the Subcommittee on Appeals. These conditions were present prior to the relevant "drop dates", and the Student could have eased her situation by lightening her load. However, the news she received concerning her parents' situation was not something she could have foreseen. While the other factors mentioned would not justify relief in themselves, they did put the Student in an already disadvantaged position when she received the news about her parents. Your Committee accepts that the latter seriously distracted the Student at this critical time, sufficiently to justify relief from suspension. While the student might have applied to defer all of her examination on the ground of this last minute news, Associate Dean McDonald advised your Committee that such relief would

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not have been easily granted. Given the situation faced by the Student in the short time between receipt of the news from her home and the beginning of examinations, your Committee is not prepared to deny relief because of her failure to make such an application. Your Committee had the advantage of seeing and weighing the credibility of the Student during her oral testimony before it. Unfortunately, the Subcommittee on Academic Appeals did not have this opportunity, as the University's advice of the forthcoming hearing did not reach the Student.

The appeal is allowed. The one year suspension imposed following the 2000 - 2001 academic year should be treated as deferred, and the Student's academic status in future years established accordingly, pursuant to the academic rules of UTSC.

There is no basis for removing the notice of the deferred suspension from the official transcript, and that request is denied.

Your Committee notes that the Student will be on probationary status for at least her next term, and its members wish to urge the Student to make full use of the counselling and academic assistance that the University makes available to students.

November 7, 2002

Respectfully submitted,

Paul J. Holmes  
Secretary

Professor Emeritus Ralph Scane  
Senior Chair

# **UNIVERSITY OF TORONTO GOVERNING COUNCIL**

## **REPORT NUMBER 271 OF THE ACADEMIC APPEALS COMMITTEE**

Your Committee reports that it held a hearing on Wednesday, October 30, 2002, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair  
Professor Clare Beghtol  
Professor Sherwin Desser  
Professor Luigi Girolametto  
Mr. Colm Murphy

Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

Mr. V.T., the Appellant  
Associate Dean Sue Howson, Faculty of Arts and Science, University of Toronto

The student appeals from a decision of the Academic Appeals Board of the Faculty of Arts and Science, dated January 29, 2002, denying his appeal for late withdrawal without academic penalty from MGT123H1S (the “course”) taken in the Spring 2001 session. The student was appealing a decision of the Committee on Standing (dated October 31, 2001) denying his request for late withdrawal without academic penalty from the course.

The student continues to seek late withdrawal without academic penalty from MGT123H1S. The student requests this extraordinary remedy on compassionate grounds. The appellant is currently a fourth year economics student at Victoria College.

The student was enrolled in two full-year courses and one half-year course (the course in question) during the Spring 2001 term, his first year as a student at the University of Toronto. The deadline for dropping the course was March 11, 2001. Your Committee heard that the appellant’s father arrived from Russia in December 2000 for a six-month visit. The father became ill in February 2001 and his condition worsened throughout March and into April. The student contends that by the time he realized that he was unable to continue in the course, it was too late to drop the course. Further, having had little experience with the ways of a Canadian university, he did not realize that he could also petition for late withdrawal until June 2001, well after having completed the course. The student wrote the final exam, without being adequately prepared, and did not hand in the term assignment. Unusual to appeals of this nature, this student actually passed the course, albeit with a D+ final grade. The student had previously missed the March 1 mid-term test in the course due to his own illness, and had had this mark re-weighted to the final examination.

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The Academic Appeals Board of the Faculty of Arts and Science found that there was not sufficient evidence to suggest that the mark in the course was unduly affected by the poor health of the appellant's father in the winter of 2001 and that the mark received in the course was not far from his grades in the other Spring 2001 courses (a B- and C+ respectively). The Board drew an adverse inference from the fact that appellant did not seek help from his Registrar at a meeting on March 5, 2001. Similarly, the Committee of Standing although sympathetic to the appellant found that the appellant had already received special consideration for the missed mid-term test, had passed the course, and had received satisfactory grades in his other courses for that term.

The appellant argues that although he did meet with his Registrar before the drop date, he made no mention of his domestic problems because he could not foresee how bad things would get. The student suggests MG120 (taken in the Fall 2000 term), in which he received a B, as more indicative of his ability. He argues that he was able to finish the other Spring 2001 courses with better grades, because the bulk of the coursework was already completed and thus, his work was not nearly as adversely affected as a result of his father's needs. Further, he notes that he was not ignorant of the rules; he was simply overwhelmed with the medical needs of his father, keeping up as best he could in school, and with the demands of his part-time job. The Committee heard evidence that the appellant's father suffered from a variety of ailments that required repeated doctor's visits (at which the appellant had to be present to translate), extensive attempts to obtain health insurance, and repeated interruptions to appellant's life to assist his father.

Your Committee heard evidence from the University that it does not dispute that the appellant spent considerable time caring for his ill father, specifically during March 2001. However, the petition for late withdrawal violates several key university procedures pertinent to late withdrawal applications. The appellant finished the course, the appellant passed the course, and the appellant only sought to drop one course – that is the one with the lowest grade. Further the University contends that ignorance of the rules is not grounds for allowing this type of remedy.

The ability to obtain late withdrawal without academic penalty is an extraordinary remedy, reserved for the most serious and unique of situations. The very existence of "drop dates" indicates that the University takes seriously the ability of a student to choose whether or not to continue in a course for any number of reasons personal to the student. By that date each term, the student is expected to have assessed his or her situation and made a decision. But once the date has passed, the University takes the position that the student has decided, no matter what situation may have existed before the drop date or may arise after the drop date, to continue on in the course. Exceptions to the drop date regime are rare, but one could conceive that they would only entail situations where unanticipated circumstances occur after the drop date, where already-existing circumstances become significantly more severe, or where already-existing circumstances do not resolve as expected.

Applying this analysis to the present case, your Committee finds that this is a situation in which already-existing circumstances became significantly more severe and were not

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anticipated or easily accommodated. The Committee accepts the appellant's contention that the circumstances in the winter and spring of 2001 were beyond his control, unduly intrusive on his ability to study, and became progressively and unexpectedly worse well past the drop date. We accept that the appellant was overly focused on his father throughout March and this pre-occupation, coupled with his newness to a Canadian university, made it unlikely he would seek the help available to him. We note that the appellant has matured into a very strong student, and we acknowledge his desire to remove a blemish from his transcript. We also note that our decision means that the appellant loses the half course credit accrued by having already passed the course. This decision is not meant as precedent for future students asking for late withdrawal without academic penalty; nor is it meant to be a negative reflection on the University, which followed its procedures correctly. Rather this decision is an acknowledgment of the unique and serious nature of the appellant's circumstances during March 2001, necessitating a unique and serious remedy.

The appeal is allowed.

November 8, 2002

Paul J. Holmes  
Judicial Affairs Officer

Assistant Dean Bonnie Goldberg  
Chair

# **UNIVERSITY OF TORONTO GOVERNING COUNCIL**

## **REPORT NUMBER 272 OF THE ACADEMIC APPEALS COMMITTEE**

Your Committee reports that it held a hearing on Tuesday, November 19, 2002, at which the following were present:

Professor Ed Morgan, Chair  
Professor Sherwin Desser  
Professor Cheryl Misak  
Mr. Chris Ramsaroop  
Professor John Wedge

Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

For the Student:

Ms. M.K. (the Student)  
Ms. Soma Choudhury, Downtown Legal Services  
Ms. Erica Toews (observing), Faculty of Law

For the University of Toronto at Scarborough:

Professor Ian McDonald, Associate Dean

This is an appeal to the Academic Appeals Committee of Governing Council (the "Committee") by Ms. M.K., a student enrolled in an Honours Bachelor of Arts program, from the decision of the Subcommittee on Academic Appeals of the University of Toronto at Scarborough (the "Subcommittee"). The Subcommittee denied Ms. M.K.'s appeal of a decision of the Scarborough Academic Committee on Standing denying her petition to write a deferred examination for the SOCB01Y course taught in the summer session of 2001. Ms. M.K. was unable to write the exam because she had left Canada for India to visit with her dying grandmother.

The Subcommittee's reasons for denying the appeal were that Ms. M.K. should have pursued one of two alternative courses of action: either petition for late withdrawal from the course or leave and return sooner in order to take the exam as scheduled. In view of her failure to pursue either of these two options, the Subcommittee felt that Ms. M.K.'s inability to write the exam did not raise grounds for special consideration under the governing university rules. It is the policy of the University of Toronto at Scarborough ("UTSC") to grant special consideration only to those students "whose academic work is seriously affected by some factor or factors beyond their control."

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The Committee received written submissions and heard from Ms. M.K. as well as from Professor Ian McDonald, Associate Dean of UTSC. Professor McDonald indicated in his oral presentation to the Committee that had Ms. M.K.'s grandmother died prior to the exam the conditions for special considerations would have been met and Ms. M.K.'s petition for a deferred exam would have been granted, but that the conditions for special consideration were not met for a visit to the grandmother in advance of her death. Ms. M.K. testified that she learned several weeks before the exam – but after the July 22 drop date for the course – that her grandmother's illness was diagnosed as being fatal, and that it was her grandmother's dying wish to see her grandchildren one last time. She traveled to India with the rest of her family on August 5, 2001, thus missing the exam on August 15, 2001. Ms. M.K.'s grandmother in fact passed away in October 2001.

It is the Committee's view that if a visit abroad in the event of a grandparent's death constitutes an appropriate "special circumstance" for a deferred exam, it is only reasonable to consider a visit to a *dying* grandparent to be an equally appropriate "special circumstance". The Committee notes that Ms. M.K. was not in a position to predict the precise course of her grandmother's fatal illness, and that her need to accompany the rest of her family to India just prior to the SOCB01Y exam was indeed a factor beyond her control. The Committee also notes that the Subcommittee did not have a complete medical diagnosis of Ms. M.K.'s grandmother before it when it heard Ms. M.K.'s appeal, and that had it fully understood the medical situation it may well have come to a different conclusion.

Furthermore, it is clear to the Committee that the Subcommittee was under the mistaken impression that Ms. M.K. was failing the SOCB01Y course at the time of her departure from Canada. Professor McDonald concedes on behalf of UTSC that the Subcommittee had been so misinformed by the course instructor. He submits, however, that this error had no substantial bearing on the decision taken by the Subcommittee in rejecting Ms. M.K.'s appeal.

It is the Committee's view that this error was sufficient to undermine the Subcommittee's fair process. Professor McDonald was not present at the Subcommittee hearing, but Ms. M.K. testified that her failing grade prior to the exam was the subject of much discussion at the Subcommittee hearing. The Committee is of the view that the Subcommittee members could not help but to have been influenced by the mistaken information they were given. A petition for special consideration calls for the exercise of some judgment about the petitioner's special situation, and it stands to reason that this exercise of judgment would be tainted by misinformation about whether the petitioner is passing or failing the very course for which special consideration is being requested. Ms. M.K. had a right to a hearing by the Subcommittee with her accurate academic record before it.



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For these reasons, the Committee is unanimous in its decision to grant the appeal. Ms. M.K. is entitled to a deferred examination in the SOCB01Y course for the 2001 summer session.

November 28, 2002

Paul J. Holmes  
Judicial Affairs Officer

Professor Ed Morgan  
Chair

# **UNIVERSITY OF TORONTO GOVERNING COUNCIL**

## **REPORT NUMBER 273 OF THE ACADEMIC APPEALS COMMITTEE**

Your Committee reports that it held a hearing on Tuesday December 17, 2002, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair  
Mr Mark Braun  
Professor Phil Byer  
Professor Sherwin Desser  
Professor Luigi Girolametto

Mr Paul Holmes, Judicial Affairs Officer

In Attendance:

Mr N.M., the Appellant  
Professor Gordon Anderson, University of Toronto at Mississauga, Erindale College

This is an appeal from the decision of the Academic Appeals Board of the University of Toronto at Mississauga ("UTM"), dated October 4, 2001. The Academic Appeals Board ("the Board") affirmed a Committee on Standing decision, dated July 5, 2001, denying the appellant late withdrawal from four courses: MAT311H5; BIO361H5; BIO407H5; and ECO460Y5. The appellant appeals to this Committee for late withdrawal from two of the four courses: BIO361H5; and ECO460Y5.

The appellant was an above average student during his first three years at University. In the 2000-2001 academic year, the appellant experienced personal and financial difficulties and could not focus on school. He was not attending classes regularly or completing his tests and assignments. His problems were compounded by the fact that he was not receiving OSAP and in fact, was required to pay back an overpayment from a previous year. He was working long hours during the day. He was in conflict with parents, who were going through their own personal and financial problems, and occasionally, the appellant had to leave home for periods of time.

In May and July of 2001, the appellant made a series of petitions to the Committee on Standing regarding his performance. He was granted late withdrawal without academic penalty for four of his courses, and granted deferred examinations for the two courses in question.

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The appellant chose not to write the deferred examinations that were provided to him by the Committee on Standing in the August 2001 period, which resulted in failures in these two courses, and instead appealed to the Academic Appeals Board for late withdrawal from four courses. The Academic Appeals Board found that the appellant did not present a compelling case for an exemption from the Faculty's regulations, and further, that the Faculty had granted the appellant many concessions throughout his four academic years. In the opinion of the Board, the appellant should have known the procedures for withdrawing from courses when "personal problems interfered with your studies."

The appellant returned to school for a fifth year to complete his degree, and earned adequate grades. He is now enrolled as a first year medical student at a university in the West Indies.

The appellant appeals to this Committee for late withdrawal for two of the courses, both of which he failed. He did not appeal to this Committee for late withdrawal from two of the courses, both of which he passed with a D (BIO407H5) and C- (MAT311H5)

The University's position at the hearing was that the reasons for the Academic Appeals Board decision are still pertinent and relevant. The University argued that the appellant should not be allowed to "cleanse" a transcript of poor grades without compelling reasons. The appellant did not offer any information to your Committee different than that presented to the Academic Appeals Board. The appellant indicated that his preference was not to discuss his personal problems. He reiterated that it was a difficult year for him due to his personal and financial problems, and that he returned to school in 2002 more focused on his goals (medical school). He acknowledged that he made poor choices in the 2000-2001 year, and did not seek any assistance from the university to deal with his problems. He did not offer any specific reasons for why he chose not to write the deferred examinations, except that at that point, he had decided that the year was lost to him academically. The appellant told the Committee that our decision would not have much bearing on his future, as he has achieved his goal of attending medical school. However, he wished to have the failures removed from his transcript.

The Committee considered both sides of this issue, and came to the conclusion that the decision of the Academic Appeals Board should be upheld. The appellant did not present any information to the Committee that was new or different than that which the Academic Appeals Board had before it in October 2001. The remedy of late withdrawal without academic penalty is a penalty reserved for the most extenuating of circumstances. The Academic Appeals Board recognized the difficulties facing this appellant and granted him four such withdrawals. However, the Appeals Board also chose to grant deferred examinations in the other courses, a decision which would have enabled the appellant to salvage some of his year. The appellant chose not to use this opportunity. We see no reason to disagree with the discretion of the Academic Appeals Board and do not have before us any evidence of compelling circumstances that would permit us to grant the appellant additional late withdrawals. Furthermore, having been given deferred examinations and other special consideration throughout his academic career, the appellant should have reasonably known the deadlines for withdrawing from courses

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when it appeared that his personal problems made continuing in the courses untenable. He completed virtually no work in the second term, and hoped that he could have his transcript erased. We are not prepared to grant this remedy. The appellant has moved on, putting his difficult academic year behind him, and for this we commend him.

On the basis of the information provided to the Committee, we are confident in our decision; however, we wish to express our regret that both sides, UTM and the appellant, did not provide us with more detailed and helpful information.

The appeal is dismissed.

January 6, 2003

Paul J. Holmes  
Judicial Affairs Officer  
(Secretary)

Assistant Dean Bonnie Goldberg  
Chair